

HUSCH BLACKWELL LLP

David Stauss (NJ I.D. #013862005)
 1801 Wewatta Street, Suite 1000
 Denver, CO 80202
 Telephone: 303.749.7200
 Facsimile: 303.749.7272
 Email: david.stauss@huschblackwell.com

HUSCH BLACKWELL LLP

Caleb T. Holzaepfel, Esq.
 Admitted *pro hac vice*
 736 Georgia Avenue, Suite 300
 Chattanooga, Tennessee 37402
 Telephone: 423.755.2654
 Email: caleb.holzaepfel@huschblackwell.com

Attorneys for Safety National Casualty Corporation

**UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEW JERSEY**

-----X		
In re	:	Chapter 11
	:	
BED BATH & BEYOND INC., <i>et al.</i> ,	:	
	:	Case No. 23-13359 (VFP)
	:	
Debtors. ¹	:	(Jointly Administered)
	:	
-----X		

**RESERVATION OF RIGHTS OF SAFETY NATIONAL
 CASUALTY CORPORATION AS TO MOTION FOR RELIEF
 FROM AUTOMATIC STAY ON BEHALF OF PHYLLIS EICHNER**

Safety National Casualty Corporation (“Safety National”), by and through the undersigned counsel, hereby files this reservation of rights (the “Reservation of Rights”) as to the *Notice of Motion for Relief from Automatic Stay* filed by Phyllis Eichner [Docket No. 1925] (the

¹ The last four digits of Debtor Bed Bath & Beyond Inc.’s tax identification number are 0488. A complete list of the Debtors in these Chapter 11 Cases and each such Debtor’s tax identification number may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://restructuring.ra.kroll.com/bbby>. The location of Debtor Bed Bath & Beyond Inc.’s principal place of business and the Debtors’ service address in these Chapter 11 Cases is 650 Liberty Avenue, Union, New Jersey 07083.

“Eichner Motion”) In support of this Reservation of Rights, Safety National respectfully states a follows:

1. On August 18, 2023, movant Phyllis Eichner (“Eichner”) filed her *Notice of Motion for Relief from Automatic Stay* at Docket Number 1925, requesting relief from the automatic stay to pursue claims against Debtor Bed Bath & Beyond, Inc. (the “Debtor”) and affiliates of the Debtor, potentially including other debtor entities in the above captioned case (collectively with the Debtor, the “Debtors”), under a certain lawsuit styled *Phyllis Eichner v. Bed, Bath & Beyond, Inc., et al.*, Case No. ATL-L-2254-21 filed on July 19, 2021 in the Superior Court of New Jersey, Atlantic County Law Division (the “State Court Lawsuit”). The State Court Lawsuit includes premises claims against the Debtors based on alleged injuries sustained by Eichner on September 25, 2020 while she was a patron/business invitee in a Bed Bath & Beyond store located in Mays Landing, New Jersey. The Eichner Motion requests that Eichner be allowed to pursue claims against the Debtors under the State Court Lawsuit to the extent of applicable insurance and states that Eichner believes the applicable insurance to be a certain commercial general liability policy held by the Debtor with Safety National (the “Safety National Insurance Policy”).

2. As of the filing of this Reservation of Rights, no proposed stipulation has been filed on the docket nor have the Debtors filed any objection to the Eichner Motion. Safety National will object to any stipulation or proposed order that attempts to modify the rights or defenses held by Safety National under the Safety National Insurance Policy, any applicable policy or contractual agreements between the Debtors and Safety National, the Bankruptcy Code, or other applicable law. Accordingly, Safety National hereby expressly reserves all of its rights, claims, counterclaims, defenses, and remedies under the Bankruptcy Code, the Safety National Insurance Policy, any

applicable contractual agreements between the Debtors and Safety National, and other applicable law.

WHEREFORE the reasons set forth above, Safety National respectfully requests a reservation of its rights as to the Eichner Motion.

Dated: September 5, 2023

Respectfully Submitted,

/s/ David Stauss

David Stauss (NJ I.D. #013862005)

HUSCH BLACKWELL LLP

1801 Wewatta Street, Suite 1000

Denver, CO 80202

T: 303.749.7200; F: 303.749.7272

Email: david.stauss@huschblackwell.com

Caleb T. Holzaepfel, Esq. (admitted *pro hac vice*)

HUSCH BLACKWELL LLP

736 Georgia Avenue, Suite 300

Chattanooga, Tennessee 37402

T: 423.755.2654; F: 423.266.5500

Email: caleb.holzaepfel@huschblackwell.com

Attorneys for Safety National Casualty Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this the 5th day of September, 2023, a true and correct copy of *Safety National's Reservation of Rights* has been electronically filed with the Court via the CM/ECF system and will be served by electronic means through the CM/ECF system to the below and to all registered CM/ECF participants.

Debtors' Counsel

Kirkland & Ellis LLP
Attn: Joshua A. Sussberg,
Attn: Emily E. Geier
Attn: Derek I. Hunter
601 Lexington Avenue
New York, New York 10022
joshua.sussberg@kirkland.com
emily.geier@kirkland.com
derek.hunter@kirkland.com

United States Trustee

Fran B. Steele, Esq.
Alexandria Nikolinos
One Newark Center, Suite 2100
Newark, NJ 07102
Fran.B.Steele@usdoj.gov
alexandria.nikolinos@usdoj.gov

Counsel to Phyllis Eichner

Francis J. Ballak
Goldenberg, Mackler, Sayegh, Mintz, Pfeffer,
Bonchi & Gill
A Professional Corporation
660 New Road, Suite 1-A
Northfield, NJ 08225
francis@gmslaw.com

Debtors' Counsel

Cole Schotz P.C.
Michael D. Sirota
Warren A. Usatine
Felice R. Yudkin
25 Main Street Hackensack
New Jersey 07601
msirota@coleschotz.com
wusatine@coleschotz.com
fyudkin@coleschotz.com

Counsel to the Official Committee of
Unsecured Creditors

Robert J. Feinstein
Bradford J. Sandler
Pachulski Stang Ziehl & Jones LLP
780 Third Avenue, 34th Floor
New York, NY 10017
rfeinstein@pszjlaw.com
bsandler@pszjlaw.com

/s/ David Stauss

David Stauss (NJ I.D. #013862005)